

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

GLENN H. GORTON,)
)
Plaintiff,)
)
vs.) Case No. CIV-08-1384-F
)
DAVID C. MILLER, et al.,)
)
Defendant(s).)

ORDER

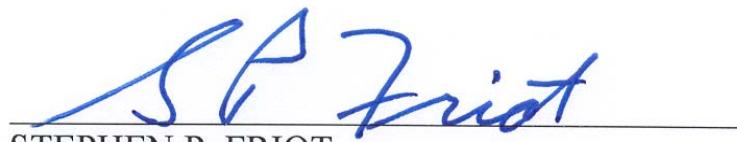
Plaintiff Glenn H. Gorton, a state prisoner appearing *pro se* and *in forma pauperis* whose pleadings are liberally construed, brings this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. Plaintiff has not objected to the February 24, 2009 Report and Recommendation of Magistrate Judge Valerie K. Couch. In that Report, after initial review pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), Magistrate Judge Couch recommends that this action be dismissed as frivolous because it is duplicative of claims asserted in other cases previously filed by plaintiff or currently pending before this court. The Magistrate Judge further recommends that this dismissal should count as a prior occasion or “strike” pursuant to 28 U.S.C. § 1915(g).

Having conducted its review, and after consideration of the record and the authorities, and with there being no objection, the court finds that it agrees with the Report and Recommendation of Magistrate Judge Couch and that no purpose would be served by stating any further analysis here.

Accordingly, the Report and Recommendation of Magistrate Judge Couch is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. This action is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). This dismissal

counts as a prior occasion or “strike” pursuant to 28 U.S.C. § 1915(g) after plaintiff has exhausted or waived his right to appeal. Additionally, plaintiff’s “Motion for Order” (doc. no. 8) and Motion to Appoint Counsel (doc. no. 9) are **DENIED**.

Dated this 30th day of March, 2009.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

08-1384p002.wpd